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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PENDLETON DIVISION

**OREGON NATURAL DESERT
ASS'N, et al.,**

Plaintiffs,

v.

**U.S. DEPARTMENT OF THE AIR
FORCE,**

Defendant.

Case No. 2:24-cv-00145-HL

**JOINT MOTION FOR REVISED
CASE SCHEDULE AND
MEMORANDUM IN SUPPORT**

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IN SUPPORT**

MOTION

Plaintiffs Oregon Natural Desert Association, et al., and Defendant United States Department of the Air Force (collectively, “the Parties”) hereby move for an order vacating the existing case schedule and instead establishing the deadlines described below. In compliance with Local Rule 7-1, counsel for Defendant and Plaintiffs conferred, and the Parties join in this motion.

MEMORANDUM IN SUPPORT

Plaintiffs filed this lawsuit on January 22, 2024, alleging that Defendant’s analysis of the environmental impacts of certain expanded military aircraft operations violated the National Environmental Policy Act, 42 U.S.C. § 4321, *et seq.* See ECF No. 1. On January 23, 2024, this Court issued a standard Discovery and Pretrial Scheduling Order that set numerous 120-day and 150-day deadlines for this case. See ECF No. 2. On March 25, 2024, Defendant filed a Motion to Dismiss (“Motion”) for lack of jurisdiction. ECF No. 10. On April 2, 2024, Plaintiffs filed an opposition to that Motion, ECF No. 11, and Defendant filed a reply in support on April 16, 2024. ECF No. 12. The Parties conferred on April 23, 2024, to discuss case scheduling and management.

Because Plaintiffs’ case arises under the Administrative Procedure Act (APA), 5 U.S.C. § 706, *et seq.*, judicial review will be based on the administrative record. *Lands Council v. Powell*, 395 F.3d 1019, 1029–30 (9th Cir. 2005). Accordingly, this case will not involve discovery and is exempt from initial

disclosures and associated deadlines, Fed. R. Civ. P. 26(a)(1)(B) & ECF No. 2 ¶ 3, including many of the pretrial deadlines set forth in the Court's Scheduling Order. ECF No. 2.

The Parties propose to address the applicable pretrial deadlines from the Court's Scheduling Order—including a case management schedule and alternative dispute resolution requirements—in a Joint Status Report that they will file within fourteen (14) days of the Court's resolution of Defendants' pending Motion, unless the Court dismisses the case. The Parties anticipate that their proposed case schedule will include deadlines for Defendant's production of the administrative record, lodging disputes over the completeness of the record, and briefing cross-motions for summary judgment.

Accordingly, the Parties request entry of an order: (1) vacating all existing case deadlines, including those set forth in the Court's Discovery and Pretrial Scheduling Order, ECF No. 2; and (2) establishing a deadline for the Parties to submit a joint status report to the Court within fourteen (14) days of the Court's resolution of Defendants' Motion, ECF No. 10, unless that Motion is granted and this case is dismissed.

There is good cause to grant the instant motion. Resolution of the Motion to Dismiss before setting case management deadlines will conserve judicial resources as well as the resources of the Parties. However, Plaintiffs reserve the right to seek a preliminary injunction or other relief to address any changed circumstances if it becomes necessary to protect their rights and interests.

Therefore, the Parties request entry of an order with the following terms:

1. All existing case deadlines, including those set forth in the Court's Discovery and Pretrial Scheduling Order, ECF No. 2, are vacated; and
2. The Parties shall file a joint status report that proposes a case management schedule and addresses other aspects of this Court's Scheduling Order, ECF No. 2, within fourteen (14) days of this Court's resolution of Defendant's Motion to Dismiss, ECF No. 10, unless that motion is granted and this case is dismissed.

Respectfully submitted this 26th day of April, 2024.

TODD KIM
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s/ Andrew R. Tardiff

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